



THE STATE BAR OF CALIFORNIA

INTER-OFFICE
COMMUNICATION

DATE: August 7, 1996

TO: Staff, Office of Chief Trial Counsel

FROM: Judy Johnson, Chief Trial Counsel *[Signature]*

SUBJECT: **Policy Regarding Rule 1-311**
Effective August 1, 1996

On July 11, 1996 the Supreme Court adopted Rule 1-311 of the Rules of Professional Conduct concerning **Employment of Disbarred, Suspended, Resigned, or Involuntarily Inactive Member.**

The primary goal of the rule is to ensure that the disqualified member not become an employee of or associate with an active member and continue to perform substantially the same activities that he/she performed previously as an active member and to provide notice to affected clients and the State Bar.

The rule regulates the employing/associating member, rather than the disqualified member, and prohibits the disqualified member from engaging in a number of activities on behalf of clients including activities that could be performed by a non-attorney. Additionally, the rule requires notice to the State Bar of the employment and notification to each client if the disqualified member will work on that client's case.

The Office of the Chief Trial Counsel has prepared several forms which may be used by the associating/employing attorney to notify the State Bar and individual clients (copies are attached). The Probation Unit, Office of the Chief Trial Counsel, Los Angeles will receive and track the receipt of these notices.

Two questions have arisen concerning interpretation of the rule relating to confidentiality of the notification to the State Bar and the obligation of the employing/associating member to notify the State Bar subsequent to August 1, 1996 of pre-existing employment/association with disqualified members.

Generally, the State Bar Act requires disciplinary information remain confidential unless specifically made public by operation of law. The notice information is of similar import. Accordingly, since the salutary purpose of the rule

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is to prohibit the above-described activities and to provide notice to individual clients, public protection issues do not compel public disclosure of the fact that a disqualified attorney is employed by or associated with another attorney or the nature of that relationship. Therefore, the Office of the Chief Trial Counsel, subject to the public protection waiver authority pursuant to Division II, Chapter 3, Rule 2302 of the Rules of Procedure of the State Bar, will not disclose to the public information provided pursuant to Rule 1-311.

Additionally, if the disqualified member is in the employ of an active member on August 1, 1996, the employer member should comply with the notice requirement to the State Bar, and to individual clients if the disqualified member will be working on a specific client matter. If there is no specific client matter which the disqualified member will be working on then no notice to the client is required. We are regulating status (disbarred, suspended, resigned or involuntary inactive member) and conduct (employment as defined) as of August 1, 1996. For example, if the disqualified member's duties are only those identified in paragraph (E) as of August 1, 1996, notwithstanding the prior activities of the disqualified member, no notice to the State Bar or client is needed.

FPB:emw

Attachment: Rule 1-311
Notification Forms